

REMARKS

By this Amendment, claims 24, 45, and 47-72 are pending, in which claims 45, 48, 55, 62, 71, and 72 are currently amended. No new matter is introduced.

The Office Action mailed November 20, 2008 rejected claims 71 and 72 under the second paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement, rejected claims 24, 45, 47-55, 62, 71, and 72 under 35 U.S.C. § 102(b) as anticipated by *Neubauer et al.* (U.S. 5,953,673), rejected claims 24, 45, 47-52, 54-67, and 69-72 under 35 U.S.C. § 102(b) as anticipated by *Tognazzini* (EP 0810803), rejected claim 53 under 35 U.S.C. § 103(a) as obvious based on *Tognazzini* in view of *De Brito* (U.S. 6,529,735), rejected claim 53 under 35 U.S.C. § 103(a) as obvious based on *Tognazzini* in view of *Nojima* (U.S. 5,933,080), and rejected claim 68 under 35 U.S.C. § 103(a) as obvious based on *Tognazzini* in view of *Taylor* (U.S. 5,809,418).

With regard to the rejection of claims 71 and 72 under the second paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement, Applicant has amended the claims and, thereby, submits that these issues are now moot.

More specifically, the Examiner argues that there is no support in Applicant's Specification for the claimed "computer program," "computer-readable medium," and "program configured to control a processor," to perform the methods respectively recited by independent claims 71 and 72, (*See* Office Action, page 2). It is noted, however, that "[n]ot every last detail is to be described, else patent specifications would turn into production specifications, which they were never intended to be." *In re Gray*, 309 F.2d 769, 774 (C.C.P.A. 1962). In fact, "[a] patent is not a scientific treatise, but a document that presumes a readership skilled in the field of the invention." *Ajinomoto Co. v. Archer-Daniels-Midland Co.*, 228 F.3d 1338, 1347 (Fed. Cir.

2000), *cert. denied*, 532 U.S. 1019 (2001) (citing *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1556 (Fed. Cir. 1983) (holding that “[p]atents, however, are written to enable those skilled in the art to practice the invention, not the public”), *cert. denied*, 469 U.S. 851 (1984)). With respect to computer programs and mediums for storing such programs, an applicant need only describe the functional aspects and the execution of those aspects by, for example, a device (e.g., computing hardware) in order for one of ordinary skill in the art to understand that such functions may be carried out by a computer program embodied on a computer-readable medium. *See, e.g., Robotic Vision Sys. v. View Eng’g, Inc.*, 112 F.3d 1163, 1166 (Fed. Cir. 1997); *Fonar Corp. v. General Elec. Co.*, 107 F.3d 1543, 1549 (Fed. Cir. 1997); *In re Hayes Microcomputer Prods., Inc.*, 982 F.2d 1527, 1537-38 (Fed. Cir. 1992).

With these legal tenants in mind, Applicant particularly notes that the disclosed embodiments have been thoroughly described with respect to communications over, for example, telecommunication systems via various devices, e.g., mobile terminals (or stations), as well as supporting infrastructure devices, e.g., base transceiver stations, base station controllers, mobile switching centers, location registers, location service centers, and the like, (*See, e.g., Applicant’s Specification, page 7, line 3 – page 11, line 3*). In this manner, particular functions of these devices have been further described, at least, on page 11, line 5 – page 19, line 2. For example, on page 11, line 5 – page 12, line 30, Applicant at least discloses an exemplary mobile station MS1 and a processor 10 of mobile services switching center MSC that are configured to perform one or more of the functions recited in claims 71 and 72. Applicant notes further that mobile stations, mobile services switching centers, etc., are known to include some form of memory (which is clearly and unequivocally a type of computer-readable storage medium) for storing and executing computer programs for carrying out various functions, such as those functions recited

in claims 71 and 72. Based on at least the aforementioned passages, one of ordinary skill in the art would certainly be apprised of the various functions performed by the various constituents of the disclosed system and, thereby, that Applicant was in possession of the claimed computer programs embodied on the computer-readable mediums for controlling the processors of claims 71 and 72. It is, therefore, respectfully submitted that the rejection of claims 71 and 72 is not sustainable and, hence, should be withdrawn.

In order to reduce issues for potential appeal, Applicant has amended independent claims 45, 47, 48, 55, 62, 71, and 72 based on subject matter previously presented by, for example, independent claim 24. Independent claim 24 recites, *inter alia*, “wherein the **first station** is configured to request a connection with at least one of said plurality of second stations, said **connection request comprising a location criteria to be satisfied by at least one second station**, wherein the **telecommunication network comprises** at least one store configured to store location information for at least some of said second stations **and a selector configured to select at least one of the second stations** for connection when said connection request is received **in dependence on** the location information stored in the store **and the location criteria in the received connection request.**” Amended independent claims 45 and 47 recite, *inter alia*, “**defining, at a first station . . . a location criteria to be satisfied by at least one second station . . . [wherein] at least one of the second stations [is selected]** for connection, when **said connection request is received, based on** stored location information and **the location criteria in the received connection request.**” Independent claims 48 and 72 now recite, *inter alia*, “**receiving, from a station, a request for a connection** with one of a plurality of other stations, **the request comprising a location criteria to be satisfied by at least one of the other stations . . . and selecting at least one of the other stations** for the connection **based on** the location

information stored in the register and **the location criteria received in the request.**” As amended, independent claims 55 and 62 recite, *inter alia*, “transmit[ing] **a request to a telecommunications network** for a connection with one of a plurality of stations, **the request comprising a location criteria to be satisfied by at least one of the stations . . .** and . . . select[ing] at least one of the stations for the connection based on the location information stored in the register and the location criteria.” Independent claim 71 now recites, *inter alia*, “defining, **at a first station** of a telecommunication network, **a location criteria to be satisfied by at least one second station**; requesting a connection over the telecommunication network with at least one second station satisfying said location criteria, **the connection request including the location criteria**, wherein **the telecommunication network is configured to select at least one of the second stations** for connection, **when said connection request is received** by the telecommunication network, **based on** stored location information and **the location criteria in the received connection request.**”

The Office Action, on page 4, reiterates its argument that *Neubauer et al.* discloses “wherein the first station (SA, SA’) is configured to request a connection with at least one of said plurality of second stations (SB), said connection request comprising a location criteria to be satisfied by at least one second station (SB),” citing col. 5, lines 53-58, col. 6, lines 24-31, col. 7, lines 7-11, col. 8, lines 6-23, and col. 9, lines 59-62. Furthermore, the Examiner also continues to assert that the applied reference teaches “wherein the telecommunication network comprises at least one store configured to store location information for at least some of said second stations and a selector configured to select at least one of the second stations for connection when said connection request is received in dependence on the location information stored in the store and the location criteria in the received connection request,” broadly citing col. 5, line 39 – col. 11,

line 35, as well as specifically citing col. 5, lines 53-58, col. 6, lines 24-31, col. 7, lines 7-11, col. 8, lines 6-23, and col. 9, lines 5-19. Applicant respectfully disagrees.

More specifically, *Neubauer et al.* unambiguously discloses that if “**the subscriber SA of the telephone network PSTN dials a group call number** and a connection with the service control point SCP exists in the telephone network PSTN, the location of the calling subscriber SA is determined,” (Col. 6, lines 3-5). Accordingly, on “the basis of the subscriber call number of the subscriber SA, transmitted together with the dialed group call number, **the service control point SCP determines the location of said subscriber,**” such that the “group call number received is converted into a new group call number, suitable for the mobile radio network PLMN, and this group call number is sent back to the service switching point EX together with information identifying the location of the calling subscriber SA in the telephone network PSTN,” (Col. 6, lines 13-23). In this manner, the “address message” cited by the Examiner on col. 6, lines 24-31 of *Neubauer et al.* that is transmitted to the mobile switching system by the service switching point EX merely includes **the new group call number and the information on the location of the calling subscriber SA.** Thus, subscriber SA only requests a connection on the basis of a group call number, but nothing more. Moreover, the location information in the request for connection to the new group call number only includes location information concerning the calling subscriber SA, which is not a location criterion to be satisfied by at least one second station. Even still, the request for connection to the new group call number is not requested by subscriber SA, it is requested by service switching point EX.

Further, *Neubauer et al.* clearly teaches that the mobile switching system merely provides home location register HLR of mobile radio network PLMN with “the information with respect to the calling subscriber SA [or SA’] . . . and the group call number provided for the identification of

the target group of the mobile subscribers from which the called mobile target subscriber is selected,” (Col. 8, lines 39-45). The home location register HLR merely “gathers information . . . concerning all the mobile subscribers of the target group and sends this information together with the information identifying the location of the calling subscriber SA or SA’ to the service control point SCP,” (Col. 9, lines 50-55). To this point, the applied reference has not taught, or even remotely suggested, the exchange of a location criterion, much less a connection request comprising a location criterion to be satisfied by at least one second station or that such a connection request is requested by a first station.

Applicant also notes that *Neubauer et al.* particularly discloses that “service control point SCP selects on the basis of the information received [from home location register HLR] the mobile subscriber of the target group best suited with respect to the calling subscriber SA or SA’ as the mobile target subscriber SB,” which may be on the basis of the mobile target subscriber closest to the calling subscriber SA or SA’, (Col. 9, lines 56-62). Accordingly, one of ordinary skill in the art would readily understand that any selection criterion upon which the “best suited” mobile target subscriber SB is selected is part of service control point SCP, as such selection criterion is not taught, or even suggested, as being received or retrieved from any other component of either telephone network PSTN or mobile radio network PLMN. At best, *Neubauer et al.* later provides that **home location register HLR** may provide “algorithms for selection of the best suited mobile subscriber of the target group dialed, the selection being performed according to locational and/or temporal requirements or according to hierarchical or cyclical aspects of the home location register HLR,” (Col. 10, lines 57-63). Thus, and even assuming, *arguendo*, that the algorithms provided by home location register HLR contain selection criteria, this selection criteria is not included within the connection request of either

subscriber station SA or SA'. As previously argued, subscriber stations SA and SA' merely request connections in the form of dialed group call numbers. In this manner, *Neubauer et al.* also fails to teach, or even remotely suggest, **a selector configured to select at least one of the second stations for connection when said connection request is received in dependence on the location information stored in the store and the location criteria in the received connection request.**"

Since the factual determination of lack of novelty under 35 U.S.C. § 102(b) requires the **identical disclosure** in a single reference of **each element** of a claim, such that the **identically disclosed subject matter** is placed into the recognized possession of one having ordinary skill in the art, *Neubauer et al.* fails to anticipate the claimed subject matter. *See, e.g., Praxair, Inc. v. ATMI, Inc.*, 543 F.3d 1308, (Fed. Cir. 2008); *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358 (Fed. Cir. 2003); *Trintec Indus., Inc. v. Top U.S.A. Corp.*, 295 F.3d 1292, 1296-97 (Fed. Cir. 2002) (noting that **the standard is strict, requiring exact correspondence** between the contents of the applied reference and the claimed elements, such that each and every element recited in the claims is present in the allegedly anticipatory reference); *Crown Operations Int'l, Ltd. v. Solutia Inc.*, 289 F.3d 1367 (Fed. Cir. 2002). Applicant, therefore, respectfully requests that the 35 U.S.C. § 102(b) rejection to claims 24, 45, 47-55, 62, 71, and 72 be withdrawn.

The Office Action, on page 9, also reiterates its argument that *Tognazzini* discloses "wherein the first station (1010) is configured to query which reads on the claimed "request" a connection with at least one of said plurality of second stations (1020, 1030, 1040) . . . said connection request comprising a location criteria to be satisfied by at least one second station (1020)," citing col. 3, lines 6-13, col. 3, lines 43-52, and col. 11, lines 16-24, as well as FIGs. 5, 10, and 12. The Examiner also continues to assert that the applied reference teaches "wherein

the telecommunication network (1000) comprises at least one store (e.g., database) configured to store location information for at least some of said second stations . . . and a selector configured to select at least one of the second stations (1020) for connection when said connection request is received in dependence on the location information stored in the store and the location criteria in the received connection request,” additionally citing col. 3, lines 36-42, col. 3, line 40 – col. 4, line 8, col. 6, line 34 – col. 17 line 28, and col. 13, lines 12-42. Applicant respectfully disagrees.

In particular, *Tognazzini*, on col. 3, lines 36-42, specifically teaches an “apparatus for establishing communications between a calling station and one or more called stations based on information stored in a database **at a called station**, a calling station including an input device for **specifying a query against information stored in the database**, and a transmitter for sending a communications request including the query.” The calling station submits the query, **over a network**, to all stations and, thereby, receives back responses from those stations at which the information stored in the database satisfies the query,” (Col. 3, line 53 – Col. 4, line 8). As such, not only does the network not include the database, but there is not even a remote suggestion of a selector of the telecommunications network. To this effect, the query is received by the called stations, not the telecommunication network.

Moreover, the applied reference discloses that “if a match is found, the station responds with its identification,” such that a “central office detects a response and assigns an empty communications channel in the cellular spectrum to the originator and recipient of the call,” (Col. 11, lines 1-6; *See also* Col. 11, lines 39-41). In this manner, the network does not select from any second stations, much less select at least one second station based on a location criteria in a received connection request. Instead, the network merely establishes one or more communication channels between querying stations and responding stations when the network

(i.e., the central office) detects one or more responses from responding stations. Assuming, *arguendo*, that the network includes a selector, the selector would merely select at least one second station based on the detection of a transmission of a response from the at least one responding second stations.

At best, *Tognazzini* teaches a display screen 1520 of a first vehicle that enables users to touch an icon representing other vehicles that have responded to a query transmitted from the first vehicle to the other vehicles, (*See* Col. 13, lines 4-49). In this manner, the user may touch an icon on the display, such that “the touch screen display would sense the touch and open a communications link to a particular vehicle,” (Col. 13, lines 34-38). Again, if a selector even existed, the selector would select at least one of the other vehicles for connection based on user input and, thereby, not based on location criteria, much less based on the reception of a connection request, as well as in dependence on the location information stored in the store and the location criteria in the received connection request.

Again, as the factual determination of lack of novelty under 35 U.S.C. § 102(b) requires the **identical disclosure** in a single reference of **each element** of a claim, such that the **identically disclosed subject matter** is placed into the recognized possession of one having ordinary skill in the art, *Tognazzini* also fails to anticipate the claimed subject matter. Applicant, therefore, respectfully requests that the 35 U.S.C. § 102(b) rejection to claims 24, 45, 47-52, 54-67, and 69-72 be withdrawn.

Moreover the secondary references to *De Brito*, *Nojima*, and *Taylor* do not cure the deficiencies of *Tognazzini*. The Office Action, on pages 18 and 19, only relies on *De Brito* and *Nojima* for supposedly teaching “an order in which connections to the stations satisfying the location criteria are to be attempted.” *Taylor* is merely relied upon for supposedly teaching,

“wherein if the second station does not satisfy the location criteria at the time the connection request is made, the call is made at a subsequent time when the second station satisfies the location criteria,” (Office Action, page 20). Consequently, whether *Tognazzini*, *De Brito*, *Nojima*, and/or *Tayloe* are taken alone or in combination, and Applicant does not agree that the requisite motivation has been established to combine the applied references, *Tognazzini*, *De Brito*, *Nojima*, and *Tayloe* fail to teach, or even suggest, all of the claimed features. Applicant, therefore, respectfully submits that the various rejections to claims 53 and 68 under 35 U.S.C. § 103(a) are not sustainable and, hence, should also be withdrawn.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

May 20, 2009
Date

/Phouphanomketh Ditthavong/
Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9952
Fax (703) 519-9958